

- 3-3.3 **Subdivision:** any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future, including the streets, alleys, or other portions thereof intended to be dedicated for public use; and any re-subdivision of lands or lots.

**3-4.0 Requirements for Non Public Water Supplies.**

- 3-4.1 **Permit.** No person shall construct or reconstruct any water supply subject to regulations of this code until a permit has been obtained from the Administrative Agency.
- 3-4.2 **Approved Plans.** No permit to develop or modify a water supply subject to regulations of this code shall be issued until the plans have been approved by the Administrative Agency. References approved by the State Department shall be used as a guide by the Administrative Agency in reviewing and approving plans for non-public water supply systems.
- 3-4.3 **Non public water supplies that serve 2 to 9 service connections shall:**
- have an initial and at least an annual total coliform analysis, and;
  - have an initial chemical analysis for nitrates, and;
  - have other tests as may be required to verify the satisfactory condition of the supply.

**3-5.0 Minimum Standards for Groundwater Supplies.**

- 3-5.1 **Location.** All wells used as sources of water for water supplies shall be separated from the specified sources of pollution by distance equal to or greater than those shown in Table I. Such distance may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

**TABLE I**

Minimum Separation Distances Between Non-public Water Supply Wells and Sources of Pollution

Source of pollution	Minimum Separation *	Recommended Separation
Subsurface absorption field for septic and effluent	50 ft	100 ft
Pit privy	50 ft	100 ft
Septic tank	50 ft	100 ft
Barnyards, stables, manure piles, animal pens, etc.	50 ft	100 ft
Streams, lakes, and ponds	50 ft	100 ft
Sewer lines, not constructed of cast iron or other Equally watertight construction	50 ft	100 ft
Sewer lines constructed of cast iron or other Equally tight construction	10 ft	10 ft

*\*as required by K.A.R. 28-10-101*

- 3-5.2 **Construction.** The enforcement of this section of the Sanitary Code shall be regulated in accordance with K.A.R.28-30-1 et. seq. as amended. Recommended standards for the design construction, and location of the well; and practices consistent with current approved technology shall be followed.
- 3-6.0 **Requirements for Subdivision Development.** After adoption of this Code no person shall develop any subdivision until the plans and specifications for water supply provision and/or protection have been approved by the Administrative Agency.

Section 1-1.0 **Authority and Policy.**

- 1-1.1 **Legal Authority.** This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. or K.S.A. 12-330 et. seq. as amended.
- 1-1.2 **Declaration of Finding and Policy.** The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. A sanitary code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt and amend a sanitary code to provide current regulation of practices that affect health and safety.
- 1-1.3 **Purpose.** The purpose and intent of this chapter is to prescribe the procedures to be followed in administering this sanitary code or any amendments thereto; and to prescribe rules and regulations for controlling practices to minimize health and safety hazards.
- 1-1.4 **Title.** This code shall be known and referred to as the Mitchell County Sanitary Code.
- 1-1.5 **Applicability.** The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.
- 1-1.6 **Effective Date.** This code shall become effective September 22, 2003.
- 1-2.0 **Definitions:** The following words, terms, and phrases appear in more than one chapter of the code and thus have general application and usage. Words, terms and phrases appropriate or applicable to specific chapters within this Code may be found in that particular chapter.
- 1-2.1 **Administrative Agency:** the entity authorized to implement and enforce the provision of this code.
- 1-2.2 **Administrative Rules:** those rules and regulations contained in chapter one of this sanitary code which prescribe general procedures to be followed in the administration of the sanitary code adopted by the county.
- 1-2.3 **Authorized Representative:** any person who is designated by the Administrative Agency to administer this code.
- 1-2.4 **Board of County Commissioners:** the Board of County Commissioners of Mitchell County, Kansas.
- 1-2.5 **Board of Health:** the Mitchell County Board of Health. (K.S.A. 65-210)
- 1-2.6 **Hearing Officer:** means an individual, appointed by the Administrative Agency, to hear appeals from decisions made by the Health Officer relating to the enforcement and administration of this code.
- 1-2.7 **Person:** individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.
- 1-2.8 **Premise:** any lot or tract of land and all buildings structures, or facilities located thereon.
- 1-2.9 **State Department:** the Kansas Department of Health and Environment. (KDHE)
- 1-2.10 **Service Connection:** limited to where potable water is to be used for household consumption.

1-3.0 **Administrative Powers and Procedures**

- 1-3.1 **Right of Entry.** Representatives of the Administrative Agency shall have the power and authority to inspect for compliance with the County Sanitary Code.
- 1-3.2 **Permit and License.**
- 1-3.2.1 **Applications for Permits and Licenses.** Every person required by this sanitary code to obtain a permit or license shall make application for such permit or license to the Administrative Agency.
- 1-3.2.2 **Issuance of Permit or License.** After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, within 30 days of such receipt. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice and state the reasons for rejection.
- 1-3.2.3 **Permit Nontransferable.** No permit or license required by this sanitary code shall be transferable, nor shall any fees required and paid therefore be refundable.
- 1-3.2.4 **Permit Revocation.** All permits are subject to revocation for reasons of noncompliance or misrepresentation.
- 1-3.2.5 **Standard Fees.** The Administrative Agency shall establish a schedule of fees sufficient to recover direct and indirect costs of processing all permits and licenses required by the Code, and said fees shall be paid into the Administrative Agency. The Administrative Agency shall not process any application for a permit or license until the required fee has been paid. All fees required and paid shall be non-refundable. (K.S.A. 19-3702).
- 1-3.3 **Notices, Orders, Appeals.**
- 1-3.3.1 **Notice of Violations.** When the Administrative Agency determines that there has been a violation of any provision of this Code, notice of such violation shall be issued to the person responsible. The notice shall:
- be in writing;
  - include a statement of why the notice is being issued;
  - allow a reasonable period of time for performance of any work required by the notice, and,
  - be properly served upon the owner or agent.
- Such notice shall be deemed properly served when a copy thereof has been sent by registered mail to the last known address of the owner or agent.

- 2-7.3 **Proper Maintenance.** No person shall use, or offer for use, any privy that is not maintained in a clean and sanitary condition.
- 2-7.4 **Vault Required in Certain Areas.** In areas where the elevation of the groundwater is within four (4) feet of the bottom of the pit, a water tight vault shall be provided in lieu of the standard pit.
- 2-7.5 **Location.** No privy shall be installed less than 50 feet from an existing well.
- 2-8.0 **Sanitary Services.** No person shall remove or transport any wastes from any private wastewater system or privy, unless that person holds a valid permit from the Administrative Agency.
- 2-8.1 **Contracting With Unlicensed Persons Prohibited.** No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid permit.
- 2-8.2 **Minimum Standard for Sanitary Service Equipment.** All equipment for rendering of sanitary service shall be of watertight construction and maintained in good working condition. This ensures that all materials removed from private wastewater systems or privies will be transported to an approved point of disposal without spillage of the waste.
- 2-9.0 **Requirements for Subdivision Development.** After adoption of this code no person shall develop any subdivision until the plans and specification for on-site wastewater management have been approved by the Administrative Agency.

**NONPUBLIC WATER SUPPLIES****CHAPTER 3**

- 3-1.0 **Purpose and Intent.** The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than public or semi-public in Mitchell County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.
- 3-2.0 **Applicability.** The provision of this chapter shall apply to all unincorporated areas located in Mitchell County, Kansas.
- 3-3.0 **Definitions.**
- 3-3.1 **Nonpublic Water Supply:** all water supplies not meeting the definition of Public Water Supply.
- 3-3.2 **Public Water Supply:** a system that has a least ten service connections or regularly serves an average of at least 25 individuals daily at least 60 day out of the year. (K.S.A. 65-162a).

**Requirements for Private Wastewater Systems.**

- 5.1 **Approval of Plans.** After adoption of this code no person shall develop any private wastewater system until plans and specifications for such system have been approved by the Administrative Agency. Bulletin 4-2 or other references approved by KDHE will provide minimum standards for the design and construction of onsite wastewater systems and will serve as a guide by the Administrative Agency in reviewing and approving plans for private wastewater disposal systems.
- 5.2 **Permit.** No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.
- 5.3 **Suitable Site.** No site shall be approved if:
- connection to an approved public sewerage system is feasible or the site violates the provisions of Section 2-4.0 of this Code, OR
  - the site contains less than three (3) acres of land exclusive of roads, streets, or other public rights-of-way or easements, OR
  - the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.
- 5.4 **Construction Approval.** All private wastewater systems developed or modified after the effective date of this sanitary code must be inspected and approved by the Administrative Agency for compliance with the approved plans; and no portion of the system shall be covered or made inaccessible to inspection prior to approval.
- 5.5 **Proper Maintenance and Operation.** All private wastewater systems shall be maintained in good working condition. Whenever the Administrative Agency shall find any private wastewater system (in violation of this Code), the owner and/or user shall be ordered to correct the condition.
- 5.6 **Waiver.** The Administrative Agency shall have the authority to grant exceptions when reliable information is provided which can justify the exception and which will still protect the beneficial uses of the waters of the state and not create a nuisance.
- 6.0 **Minimum Standards for Soil Topography and Geology.** No Private wastewater system which is dependent upon soil absorption for the disposal of wastewater shall be constructed on any lot of any size which does not meet these minimum standards.
- The soil percolation rate is less than one (1) inch in sixty (60) minutes. All percolation tests performed in accordance with the standard procedures for such tests prescribed by State of Kansas Department of Health & Environment Bulletin 4-2: Minimum Standards for the Design and Construction of Onsite Wastewater Systems.
  - Impervious rock formations are within six (6) feet of the top of the ground or four (4) feet of the bottom of the lateral trenches.
  - The groundwater table is, at any time, within ten (10) feet of the surface of the ground.
- 7.0 **Requirements for Privies.**
- 7.1 **Approval of Plans.** No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.
- 7.2 **Approval of Construction.** No person shall use, or make available for use, any newly constructed or modified privy until the construction has been inspected and approved by the Administrative Agency for compliance with approved plans.

- 1-3.3.2 **Appeal for Hearing.** Any person aggrieved by a notice or order issued by the Administrative Agency under the provisions of the sanitary code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as a stay of notice or order. Upon receipt of such petition, The Administrative Agency shall confer with the Hearing Officer and set a notice or order shall be commenced no later than ten working days after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgment the petitioner has submitted justifiable reason for such postponement.
- 1-3.3.3 **Report of Hearing.** Within ten working days after such a hearing, the Hearing Office shall submit the findings of the hearing in writing to the Administrative Agency. The Findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the Administrative Agency shall consider the report and issue an order, confirming, modifying or withdrawing the notice or order, and shall notify the appellant in the same manner as is provided for in Sec. 1-3.3.1.
- 1-3.3.4 **Emergency Orders.** Whenever the Administrative Agency finds that an emergency exists which requires immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of such an emergency specifying action be taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately.
- 1-3.4 **Records.**
- 1-3.4.1 **Permit Applications.** Applications for permits or licenses required by this code shall be managed by the Administrative Agency.
- 1-3.4.2 **Official Actions.** A written record of all official actions taken on applications for permits or licenses required by this sanitary code shall be managed by the Administrative Agency.
- 1-3.4.3 **Proceedings of Hearings.** The proceedings of all hearings, including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.
- 1-3.5 **General Provisions.**
- 1-3.5.1 **Enforcement Procedure.** The County Attorney or County Counselor shall enforce the provisions of the code and other sanitary codes adopted by the county and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions of injunction, mandamus, and quo warranto may be governed by the provisions of the Kansas Code of Civil Procedure.
- 1-3.5.2 **Penalties.** In addition to, and independently of, the enforcement procedures provided in section 1-3.5.1 herein, any violation of any provision of a sanitary code shall be deemed to be a misdemeanor and punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense.

- 1-3.5.3 **Disclaimer of Liability.** This code and other sanitary codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits an inspection required by code will function properly.
- 1-3.5.4 **Separability.** If any clause, sentence, paragraph, section or subsection of this code shall for any reason, be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, repeal or invalidate the remainder thereof, but shall be confined to the clause, sentence, paragraph, section of subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

## ON-SITE WASTEWATER MANAGEMENT CHAPTER 2

- 2-1.0 **Purpose and Intent.** Sewage is a potential source of disease and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of onsite wastewater systems and the removal and disposal of materials from such facilities within the boundaries of Mitchell County.
- 2-2.0 **Applicability.** Pursuant to K.S.A. 19-3706, the provisions of this chapter shall apply to all unincorporated areas located in Mitchell County.
- 2-3.0 **Definitions.**
- 2-3.1 **Beneficial use:** the use of water for any of the following purposes: agricultural water supply; aquatic life; domestic water supply; groundwater recharge; industrial water supply; recreation.
- 2-3.2 **Domestic Wastewater:** any wastewater originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dishwashing, garbage-grinding toilets, baths, showers, and sinks.
- 2-3.3 **Nuisance:** conditions or activities which have or threaten to have a detrimental effect on the health of the public or its members.
- 2-3.4 **Private Wastewater System:** any system which does not hold a Kansas Water Pollution Control Permit, pursuant to K.S.A. 65-165. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.
- 2-3.5 **Sanitary Privy:** a facility designed for the disposal of non-water carried wastes from the human body.
- 2-3.6 **Sanitary Service:** the pumping out and/or removal of wastewater, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater systems, and the transportation of such material to a point of final disposal.
- 2-3.7 **Seepage Pit:** a subsurface excavation, which is filled with rock or gravel and receives effluent from treatment devices. Prohibited by the State of Kansas Department of Health and Environment Bulletin 4-2: Minimum Standards for the Design and Construction of OnSite Wastewater Systems.

- 2-3.8 **Subdivision:** any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development whether immediate or future including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any re-subdivision of land.
- 2-3.9 **Wastewater:** any substance that contains any of the waste products or excrementitious or other discharges from the bodies of human beings or animals, or other chemical wastes from domestic, manufacturing or other forms of industry.
- 2-3.10 **Wastewater System:** any wastewater system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial, or commercial waste.
- 2-3.11 **Vaults/Holding Tank:** a water-tight receptacle for the retention of wastewater either before, during, or after treatment.
- 2-4.0 **Prohibited Practices.** K.A.R. 28-5-6 All domestic wastewater shall be discharged to an approved sewage collection system.
- 2-4.1 **Use of Non-approved Private Wastewater Systems.** No person shall use, or cause to be used, any private wastewater system, or privy constructed after adoption of this sanitary code until it has been inspected and approved by the Administrative Agent.
- 2-4.1.1 A private wastewater system in use before the adoption of this code may be required to comply with the provisions of this code, with due consideration to existing lot size and conditions, if it:
- has been enjoined as a public health nuisance by a court of competent jurisdiction;
  - fails to comply with the provisions of this sanitation code, and written notice thereof has been given by the Administrative Agency;
  - discharges wastes onto the surface of the ground, or waters of the state as defined by K.S.A. 65-161 (A), OR;
  - receives non-domestic wastewater, causes vector breeding, produces offensive odors or any condition that is detrimental to health and comfort.
- 2-4.2 **Use of Private Wastewater Systems within 400 Feet of Public Sewer.** No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such sewer is not feasible and that a private wastewater system, meeting the requirements of this code, can be constructed on the property.
- 2-4.3 **Location of Private Wastewater Systems Below 100 Year Flood Plain.** No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, stream, or water supply reservoir unless written approval is obtained from the Administrative Agency.
- 2-4.4 **Location of Private Wastewater System within 50 feet of Well.** No portion of a private wastewater system shall be located less than 50 feet from a private water well or a pump suction line from a private water well, unless that portion is of water tight construction. No sanitary sewer line, regardless of construction, shall be located less than 10 feet from a private water well or a pump suction line from a private well.